

REMARKS / DISCUSSION OF ISSUES

Claims 1-15 and 19-20 are presented for further consideration. Applicants gratefully acknowledge the withdrawal of the objection to Fig. 5 and the withdrawal of the objection to the specification.

Objection to the Claims

The amendment to claim 15 rectifies the objection thereto. Claims 16-18 are cancelled.

Finality of the Rejection

Applicants respectfully submit that the present rejection is improperly made final. As stated in the response under Rule 111, the non-final rejection relied upon references in Japanese. Applicants have considered the position presented in the present Office Action and respectfully demur.

Applicants' first opportunity to consider the translations of the applied art in English was in connection with the present reply. While it is true that MPEP § 706.02 does not specify when a translation must be obtained, and while Applicants are grateful for the translations provided, Applicants nonetheless respectfully submit that equity dictates that their first opportunity to consider the translated references should not be at the final rejection. Rather, Applicants respectfully submit that the reliance on the translated art in a final rejection fails to comply with MPEP § 706, which states, in part:

The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity (emphasis added).

Moreover, Applicants respectfully note the filing of the search report from the international application, which included Patent Abstracts of Japan of publications 2000133440, 2003168867 and 2003109753, at the time of the filing of the present national phase application (please refer to Official Filing Receipt).

For at least the reasons set forth above, Applicants respectfully submit that the finality of the present rejection is improper and should be withdrawn.

Rejections under 35 U.S.C. § 102 and § 103

1. Claims 1-3, 13, 14, 16, 19 and 20 were rejected under 35 U.S.C. § 102(b) in view of *Motomatsu* (JP Patent Publication 2000-133440).
2. Claims 5-9, 12, 15 and 17 were rejected under 35 U.S.C. § 103(a) in view of *Motomatsu*.
3. Claim 4 was rejected under 35 U.S.C. § 103(a) in view of *Motomatsu* and *Murazuki, et al.* (JP Patent Publication 2003-178867).
4. Claims 10 and 11 were rejected under 35 U.S.C. § 103(a) in view of *Motomatsu* and *Jones* (U.S. Patent 5,920,080).
5. Claim 18 was rejected under 35 U.S.C. § 103(a) in view of *Hasegawa* (JP Patent Publication 2003-109755).

Claim 1 recites:

An electronic device comprising a protective barrier layer stack comprising a first barrier layer of a first amorphous carbon modification and a second barrier layer of a second amorphous carbon modification.

In rejecting claim 1, the Office Action directs Applicants to first carbon protective film 7 and a second carbon protective film 8 for the alleged disclosure of the emphasized features of claim 1. These layers are formed on a ground film 6 of amorphous silicon. The first and second carbon protective layers include various levels of hydrogen, with the second protective film 8 seemingly having an insubstantial amount of hydrogen.

Nonetheless, while certain details of the carbon protective films are described, the references fails to disclose that these layers are amorphous. (See paragraphs [0014], [0019] and [0020] of the translation provided in the Office Action). Accordingly, Applicants respectfully submit that the applied art fails to disclose at least one feature of claim 1. As such, a *prima facie* case of anticipation cannot be established based on *Motomatsu*. Therefore, claim 1 is patentable over the applied art.

Claim 19 recites:

A method of fabricating an electronic device comprising an electroluminescent diode, the method comprising:

forming a protective barrier layer stack, the forming comprising:

depositing a first amorphous carbon modification from a gas phase; and
depositing a second amorphous carbon modification from a gas phase.

The Office Action directs Applicants to first carbon protective film 7 and a second carbon protective film 8 for the alleged disclosure of the emphasized features of claim 19. For reasons consistent with those presented in the traversal of the rejection of claim 1, Applicants respectfully submit that the applied art fails to disclose at least one feature of claim 19. As such, a *prima facie* case of anticipation cannot be established based on *Motomatsu*. Therefore, claim 19 is patentable over the applied art.

General Comments on Rejections of Dependent Claims

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicant believes that it is unnecessary at this time to argue the allowability of each of the dependent claims, which are rejected under 35 U.S.C. § 103 as outlined above, individually. Applicant does not, however, necessarily concur with the interpretation of any dependent claim as set forth in the Office Action, nor do Applicant concurs that the basis for the rejection of any dependent claim is proper. Therefore, Applicant reserves the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

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